

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

HORACE CLAIBORNE, SONJIA
MONIQUE BOWLIN, TYSHAWN
WALKER, DEZRAE KAUHANE, WILLIE
SEALS, FREDERICK EPPICH, JEROME
SCHOOLFIELD, KRISTINA TRAVIS,
JEREMY WINKELS, DANIEL
FORRESTER, MARK DAVID GRIFFETH,
DOUGLAS RUSSELL, KENNETH
BURTON, GERALD GENSOLI, and
THOMAS DEPPIESSE, on behalf of
themselves and others similarly situated,

Plaintiffs,

v.

FEDEX GROUND PACKAGE SYSTEM, INC.,

Defendant.

CIVIL ACTION

No. 2:18-cv-01698-RJC

**DEFENDANT FEDEX GROUND PACKAGE SYSTEM, INC.'S OPPOSED MOTION TO
DISMISS WITH PREJUDICE DISCOVERY OPT-INS, FROM THE INITIAL 500, WHO
FAILED TO COMPLY WITH THE COURT'S DECEMBER 7, 2021, DISCOVERY
ORDER**

On December 7, 2021, the Court granted Defendant FedEx Ground's unopposed motion to compel compliance with the Court's September 15, 2021, case management order, stating those opt-in Plaintiffs who failed to "provide complete questionnaire responses and complete document productions within 30 days of entry" of the order "may be dismissed with prejudice." (*See* ECF 321 (Order).) FedEx Ground now moves to dismiss with prejudice those opt-in Plaintiffs who failed to provide complete questionnaire responses and document productions by the January 6, 2022, deadline, and still have not through the date of the filing of this motion (giving them even additional time).

CERTIFICATE OF CONFERRAL

FedEx Ground's counsel and Plaintiffs' counsel have conferred on these issues a number of times. Plaintiffs take the position that if a discovery opt-in has at least attempted to participate in discovery, either by submitting an incomplete questionnaire or incomplete document production (or both), that those individuals should not be dismissed from the case. Plaintiffs therefore oppose the relief requested herein.

Dated: February 14, 2022

Respectfully submitted,

s/ David J. Schaller

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Attorneys for Defendant
FedEx Ground Package System, Inc.

CERTIFICATE OF SERVICE (CM/ECF)

I HEREBY CERTIFY that on February 14, 2022, I electronically filed the foregoing **DEFENDANT FEDEX GROUND PACKAGE SYSTEM, INC.'S OPPOSED MOTION TO DISMISS WITH PREJUDICE DISCOVERY OPT-INS, FROM THE INITIAL 500, WHO FAILED TO COMPLY WITH THE COURT'S DECEMBER 7, 2021, DISCOVERY ORDER** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following email addresses:

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s/ David J. Schaller

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